

## Message Text

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ACTION ARA-10

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FM AMEMBASSY MONTEVIDEO

TO SECSTATE WASHDC IMMEDIATE 2312

C O N F I D E N T I A L MONTEVIDEO 3703

E.O. 11652: GDS

TAGS: SHUM, MASS, UY

SUBJ: CONGRESSIONAL REQUEST FOR HUMAN RIGHTS INFORMATION

REF: STATE 241088

1. SUMMARY: THE CONTENT AND THRUST OF THE DEPARTMENT'S PROPOSED RESPONSE TO SENATOR HUMPHREY ARE GOOD. EMBASSY COMMENTS AND RECOMMENDATIONS FOR MODIFICATION FOLLOW BELOW. INASMUCH AS THE AMBASSADOR WILL BE IN THE DEPARTMENT ON CONSULTATION STARTING OCTOBER 4, WE SUGGEST THAT HE BE GIVEN THE OPPORTUNITY TO REVIEW THE RESPONSE BEFORE IT IS SENT TO SENATOR HUMPHREY. END SUMMARY.

2. PART I. NO CHANGE IN FIRST TWO SENTENCES. SUGGEST REMAINDER PARA I BE MODIFIED TO READ AS FOLLOWS:  
QUOTE. DURING THIS PROCESS, A STATE OF INTERNAL WAR UNDER WHICH CERTAIN CIVIL RIGHTS WERE RESTRICTED WAS APPROVED BY THE CONSTITUTIONALLY ELECTED CONGRESS AT THE EXECUTIVE BRANCH'S REQUEST. THE STATE OF INTERNAL WAR WAS REPLACED IN JULY 1972 BY A NATIONAL SECURITY LAW, ALSO APPROVED BY THE DEMOCRATICALLY ELECTED CONGRESS. THE CONSTITUTIONALITY OF THIS LAW SUBSEQUENTLY WAS UPHELD BY THE SUPREME COURT. IN JUNE 1973, THE EXECUTIVE CLOSED THE CONGRESS, ANNOUNCED THAT IT WOULD BE REPLACED BY A COUNCIL OF STATE, AND DISSOLVED THE COMMUNIST-LED LABOR CENTRAL. THESE EVENTS TOOK PLACE DURING A PERIOD OF INCREASING MILITARY INFLUENCE IN ALL FACETS  
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OF THE NATION'S LIFE. UNQUOTE.

3. PARA 2 OF PART I SHOULD BE CHANGED TO READ AS FOLLOWS: QUOTE. FOLLOWING PRESIDENT BORDABERRY'S BEING REMOVED FROM OFFICE, VICE PRESIDENT (AND CONCURRENTLY PRESIDENT OF THE COUNCIL OF STATE) ALBERT DEMICHELI, WAS SWORN IN AS INTERIM PRESIDENT. DR. APARICIO MENDEZ WAS SWORN IN AS PRESIDENT FOR A FIVE-YEAR TERM ON SEPTEMBER 1. THE MENDEZ ADMINISTRATION IS EXPECTED TO CONTINUE THE POLICIES OF NATIONAL RECONSTRUCTION ADOPTED UNDER BORDABERRY. INITIAL GOVERNMENT ANNOUNCEMENTS INDICATE THAT NATIONAL SECURITY WILL REMAIN ONE OF THE CHIEF CONCERNS BUT THAT THE MEASURES PREVIOUSLY ADOPTED TO GITHT SUBVERSION WILL BE REVIEWED WITH THE STATED INTENTION OF ADOPTING NEW LAWS EXTENDING AND ENSURING DUE PROCESS GUARANTEES FOR PERSONS ARRESTED THEREUNDER. UNQUOTE.

4. SUGGEST THAT LAST TWO SENTENCES OF PARA 3 OF PART I READ AS FOLLOWS: QUOTE. THERE ARE HIGHLY CONSERVATIVE ELEMENTS, MOST NOTABLY WITHIN THE MILITARY, WHO DO NOT FAVOR LIBERALIZATION EFFORTS AT THIS TIME. THE MODERATES, THUS FAR, HAVE MAINTAINED SOME INFLUENCE DURING THE SHIFTS OF PRESIDENTS AND RETAIN THE ABILITY TO CONTINUE PUSHING FOR IMPROVEMENTS IN THE HUMAN RIGHTS AREA. UNQUOTE.

5. PARA 1 OF PART II, SECOND SENTENCE, SHOULD BE ALTERED TO READ: QUOTE. HOWEVER, BEGINNING IN 1972, AS A RESULT OF SERIOUS THREATS TO...UNQUOTE.

6. PARA 3 OF PART II SHOULD BE CHANGED TO READ: QUOTE. THE COUNCIL OF STATE ASSUMED THE LEGISLATIVE FUNCTION IN DECEMBER 1973. THE COUNCIL GAVE ITS APPROVAL TO THE EXECUTIVE DECREES WHICH HAD DISSOLVED THE COMMUNIST-LED LABOR CENTRAL, OUTLAWED THE COMMUNIST PARTY AND A NUMBER OF OTHER MARXIST, EXTREMIST AND LEFTIST GROUPS, PROVIDED FOR THE CONFISCATION OF TEMPORARY ATTACHMENT OF PROPERTY USED TO CARRY OUT CRIMES AGAINST THE NATION AND EXTENDED THE JURISDICTION OF MILITARY COURTS TO COVER THE TRIAL AND SENTENCING OF PERSONS ACCUSED OF TERRORISM, SUBVERSION, AND OTHER CRIMES AGAINST THE NATION. UNQUOTE. CONFIDENTIAL

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7. PART III A, ARTICLE 9. FIRST SENTENCE OF SECOND PARAGRAPH SHOULD READ: QUOTE. SOME PERSONS, PARTICULARLY SINCE A SERIES OF ARRESTS OF ACTUAL OR SUSPECTED URUGUAYAN COMMUNIST PARTY MEMBERS...UNQUOTE.

8. PART III A, ARTICLE 9. FOLLOWING SHOULD BE ADDED AS NEW SENTENCE AT END OF SECOND PARAGRAPH. QUOTE.

THE RIGHT OF VOLUNTARY EXILE UNDER ARTICLE 168(17) OF THE CONSTITUTION HAS BEEN GRANTED TO SOME PERSONS ARRESTED UNDER SECURITY MEASURES. UNQUOTE.

9. WE RECOMMEND THAT ARTICLE 11 BE CHANGED TO READ: QUOTE. TRADITIONAL LEGAL GUARANTEES STILL REMAIN VALID AND OPERATIVE FOR THE VAST MAJORITY OF URUGUAYANS. HOWEVER, IN WHAT HAS BECOME AN AREA OF PRIMARY CONCERN, THE SAME CANNOT BE SAID FOR THOSE URUGUAYANS ACCUSED OF TERRORISM, SUBVERSION, AND OF OTHER "CRIMES AGAINST THE NATION." THE ROLE OF LAWYERS IN DEFENDING SUCH CLIENTS HAS BEEN CIRCUMSCRIBED BY THE TURNING OVER TO THE MILITARY COURT SYSTEM OF THE PRE-TRIAL INVESTIGATION, ARRAIGNMENT, TRIAL AND SENTENCING OF SUCH PERSONS. AS IN OTHER COUNTRIES HAVING A CIVIL LAW SYSTEM (AS OPPOSED TO COMMON LAW TRADITION), THE PRE-TRIAL INVESTIGATION IS A PARTICULARLY IMPORTANT STAGE OF THE JUDICIAL PROCESS AND THE JUDGE WHO HANDLES THE PRELIMINARY INVESTIGATION PLAYS AN IMPORTANT ROLE. THE MILITARY JUDGES WHO HANDLE THE PRELIMINARY STAGES OF THE JUDICIAL PROCESSING OF PERSONS ACCUSED OF "CRIMES AGAINST THE NATION" ARE NOT, BY AND LARGE, TRAINED LAWYERS AND THERE ARE DELAYS IN THE SYSTEM. WHILE NOT PERMITTED ACCESS TO THEIR CLIENTS IN PRE-TRIAL PROCEEDINGS IN CASES UNDER MILITARY JURISDICTION, LAWYERS ARE PERMITTED ACCESS AT LATER STAGES OF THE JUDICIAL PROCESS, WITNESSES CAN BE CALLED AND THERE IS THE RIGHT OF APPEAL. THERE ARE NO PRECISE FIGURES ON THE NUMBER OF PERSONS WHO ARE HELD WITHOUT CHARGE OR TRIAL BUT THEY PROBABLY NUMBER SEVERAL HUNDRED. UNQUOTE.

10. PART III B, PARA 3. SUGGEST PARA BE CHANGED TO READ AS FOLLOWS: QUOTE. THE CONSTITUTIONAL GUARANTEE

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OF FREEDOM OF RELIGION IS RESPECTED IN URUGUAY. HOWEVER, RELIGIOUS OR OTHER ORGANIZATIONS ESPOUSING PHILOSOPHIES WHICH ARE CONSIDERED SUBVERSIVE MAY BE DEALT WITH UNDER SECURITY LAWS. FREEDOM OF EXPRESSION IS RESTRICTED. THE MEDIA OPERATES UNDER A SYSTEM OF SELF-CENSORSHIP WITHIN GUIDELINES ESTABLISHED BY THE AUTHORITIES ALTHOUGH IT IS NEITHER CONSISTENT NOR COMPLETE, BUT IS APPLIED CONSISTENTLY BY GOVERNMENT DIRECTION TO EXPRESSION OF MARXIST OR EXTREMIST PHILOSOPHIES. THE RIGHT OF ASSEMBLY IS RESTRICTED.

11. ACTION REQUESTED. SINCE THE AMBASSADOR WILL BE BEGINNING CONSULTATION IN THE DEPARTMENT ON OCTOBER 4, HOPE THAT REPLY TO SENATOR HUMPHREY CAN BE DEFERRED UNTIL AMBASSADOR HAS HAD OPPORTUNITY REVIEW

DRAFT AND PROPOSED CHANGES.

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## Message Attributes

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